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## LETTER FROM THE EDITOR

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Dear Readers

Our fourth issue is again a very full one, with a wide variety of issues covered by a range of case notes, country reports, in addition to scholarly articles. We are fortunate to have three excellent articles, each by a well-known scholar or scholar/practitioner. Sue Woodward has written about a key issue in NPO law: What it means to be a not-for-profit organization; Kaspar Müller has produced a fascinating account of the new Swiss accounting rules for NPOs; and Michael Ernst-Pörksen has produced an informative update on the legal environment for NPOs in Germany.

The Case Notes in this issue are also particularly interesting, in large part because of the range of issues covered, including

- Protection under the Alien Tort Claims Act in the U.S. for alleged human rights violations in Burma (*Doe v. Unocal*)
- Political party registration in Turkey (in the European Court of Human Rights)
- A German constitutional Court decision allowing a Nazi rally
- A discussion of the decision in Zimbabwe permitting the government to refuse a license to the Daily News<sup>1</sup>
- An update on the Jehovah's Witness registration case in Russia
- An account of cases brought to overturn certain aspects of the new Czech Law on Churches and Religious Establishments (included in the Czech Republic Country Report)

There are also themes of particular interest in the Country Reports:

- New or proposed **tax legislation to benefit NPOs** in France, Kazakhstan, Peru and South Africa (and some not so welcome changes being discussed in Poland)
- Issues about **religious freedom and religious organizations** in Canada, Russia, Slovenia and Turkmenistan
- **Truth and reconciliation processes** in Kenya and Peru
- **Civil society and human rights** in Asia
- New or proposed **framework legislation for NPOs** in Ethiopia, Indonesia, Tanzania (the new law has just gone into effect), the UK (including Scotland), Viet Nam and Zimbabwe
- **Constitutional developments** in Swaziland

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<sup>1</sup> As we go to press, news reports disclose that the Administrative Court of Zimbabwe has issued a decision that the government must issue a license to operate to the Daily News within a month. Nevertheless, the police have arrested key members of the Daily News' staff and charged them with a variety of offenses.

## LETTER FROM THE EDITOR

As these and other reports in this issue suggest, the roles played by civil society organizations around the world are becoming more important than ever before. Not limited to service-provision, NPOs and CSOs are increasingly being called upon to engage in advocacy for human rights and fundamental freedoms, to challenge corporations to become more responsible “citizens” of the countries in which they operate, to work with bi-lateral and multi-lateral donors to encourage consultations with civil society in the development of large infrastructure projects, etc. The ways in which such civil society organizations comport themselves is, of course, a valid concern, and one that many of the authors writing in this issue address. The law is an important determinant in the lives of both activists and organizations. Our aim is to expose issues of its application that may either help or hinder the development of civil society and the important roles it fulfills.

We would also like to highlight staffing and partnership developments that have occurred with this issue. First, accolades to the new student staff working for IJCSL: Assistant editors Reema Ali, Bryston English and Zaine Watson have joined Co-Managing Editors Valere Fulwider and Matthew Swartz in editing and writing various pieces. This infusion of new talent helps IJCSL to deliver a high quality product while also creating a significant learning experience for the students involved.

Second, new IJCSL partners include: Forum 18, a Norwegian religious freedom organization, which is featured in a special report on Freedom of Religion; as well as the MIT Program on Human Rights and Justice, whose director has given us a significant piece on civil society in Asia. Our sister publications, *Alliance*, *IJNL*, *Maecenata Actuell* and *SEAL* continue to provide welcome support and sharing of stories. We look forward to continuing to work with all these colleagues, making information about civil society law freely available around the world.

Finally, let me note that this issue is dedicated to the memory of two wonderful colleagues—Sergio Vieira de Mello and Arthur Helton—both of whom lost their lives in the tragic bombing of the UN Headquarters in Baghdad. Both men were devoted to the values of human rights and civil society, to caring for people and to sharing their gifts with the world. We all miss them and their valuable contribution to the values that this publication stands for.

With best wishes and hope for peace,

Karla W. Simon  
*Editor-in-Chief*

**SWISS GAAP FER 21**  
**ACCOUNTING STANDARD FOR CHARITABLE, SOCIAL NON-PROFIT ORGANISATIONS:**  
**THE DAYS AFTER COMING INTO FORCE<sup>□</sup>**

**BY KASPAR MÜLLER**

After Swiss GAAP FER 21 has come into force on 21 November last year, the first financial statements using the new accounting standards for non-profit organisations have now been submitted. The author, head of the Swiss GAAP FER working group, explains the concept behind FER 21 and reports on first experiences, opportunities and limits of the new accounting standard.

Like any other organisation, non-profit organisations also need to rely on clear accounting rules. In many countries, non-profit organisations are most important pillars of the economy, not only in terms of the services they provide, but also in terms of the jobs and the financial turnover they generate. The non-profit sector is often the key employer in some countries. This may seem surprising at first. But, considering the work done by, and in, organisations whose objective is neither profit nor shareholder value but which follow a specific purpose, the weight these non-profit organisations carry in any national economy becomes more readily apparent (see box 1).

In general, accounting aims largely at the needs of profit-making business organisations, whereas the concerns of non-profit organisations tend to be addressed in a rather fragmentary way. Non-profit organisations usually find it difficult to report on their activities and control systems in a transparent and readily comparable manner. But transparent and open accounting is important, not only because non-profit organisations are so important in terms of national economy, but also because they are far from immune from failure. On the contrary, accountability is a particularly relevant factor because, as Khumawala and Gordon have said in “Accounting Horizons” (1997), they are controlled neither by voters nor by market forces: “These entities are subject neither to the electoral control which holds government responsible, nor the market forces which discipline business organizations.”<sup>1</sup>

**[box 1] The economic power of non-profit organisations**

A 1999 study by Salamon and Anheier showed that 8,554,900 people were employed in the US non-profit sector in 1995. This figure is 7.8% of the entire working population; if honorary voluntary work is included, the figure rises to as much as 11.9% of the working population. This population sector generated a total cash income of USD 567 billion (USD 676 billion if honorary voluntary work is included). In their book “Unified Financial Reporting System for Not-for-Profit Organizations”, Sumariwalla and Wilson (2000) refer to an IRS (Internal Revenue Service) study in which “real property and income of organizations of the voluntary sector which submit information returns to the IRS has more than tripled between 1975 and 1995 to USD 1.9 trillion (assets) and USD 899 billion (income). The real gross domestic product has grown by 74% in the same period”. The ATAG Ernst&Young study by Wagner/Kessler of 1998 on the Swiss donation market estimates the volume of donations in Switzerland (excluding business donations and legacies) to be in the region of over one billion Swiss Francs. In other words: on average, every Swiss citizen donates 367 Swiss Francs to 2.4 organisations every year.<sup>2</sup>

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□ IJCSL thanks Kaspar Müller and the Swiss magazine Fachzeitschrift für Verbands- und Nonprofit-Management for permission to reprint this article, which originally appeared in German as “Nach Inkraftsetzung von Swiss GAAP FER 21” in: VM Fachzeitschrift für Verbands- und Nonprofit-Management 2/2003. Any error in English spelling or syntax results from IJCSL’s agreement to reprint this article without any change. To read the original article, please visit [http://www.ellipson.com/files/articles/FER21\\_Mueller\\_VM.pdf](http://www.ellipson.com/files/articles/FER21_Mueller_VM.pdf).

<sup>1</sup> Khumawala/Gordon 1997, p. 45 ff

<sup>2</sup> Cf. Wagner/Kessler 1998

This issue is anything but new for non-profit organisations. In fact, it was the non-profit organisations themselves which actually took the initiative and asked for a systematic accounting system. Their concerns were taken up by the expert commission of the Swiss GAAP FER (www.fer.ch)<sup>1</sup> (cf. box 2). In 1997, a working group began the conceptual work for Swiss GAAP FER 21 (see box 3 for the members), building up on the various issues in the profit-related sector or the existing technical recommendations given by Swiss GAAP FER. But many new elements had to be added; in particular, a totally new range of terms had to be created because neither profit nor equity are core elements in the accounting system of non-profit organisations and, as a result, these terms were of no use. The prime objective of non-profit organisations is a service which, more often than not, can only be measured in terms of quality and rarely in terms of hard figures. This is why, besides a quantitative part, there is also a qualitative element, i.e. the performance report, which is an integral factor of the accounting system for non-profit organisations.

[box 2] **Exciting and worthwhile**

Looking at accounting from the perspective of non-profit organisations raises a number of exciting issues which experts from the profit-making business sector might well consider worthwhile. The strengths and weaknesses of established financial information gleaned from balance sheets and earnings statements all of a sudden become impressively obvious. During the development of the Swiss GAAP FER 21, many tried and tested elements of profit-related accounting proved to be valuable. But it is equally true that profit-driven accounting will need to learn a lot from many an element from the non-profit sector. Under the aspect of the major economic significance of non-profit organisations, setting up a smart and efficient accounting system for non-profit organisations makes very good sense. More sense, at any rate, to work on an accounting system which also includes qualitative, cultural, social, ecological and other aspects than allowing oneself to be infected in the profit-making sector by the zeal of the Anglo-Saxon accounting tradition. The economic benefits will be enormous.

### **Coming into force**

In its meeting in November 2002, the Swiss GAAP FER expert commission (www.fer.ch) has initiated Swiss GAAP FER 21, Accounting for Charitable, Social Non-Profit Organisations, applicable to financial statements concerning financial periods beginning on or after 1 January 2003. In its meeting of March 2003, the foundation board of ZEWO (www.zewo.ch)<sup>2</sup> has resolved to make Swiss GAAP FER 21 binding in obtaining the ZEWO Seal of Quality, with the date of inception for the financial periods of major organisation beginning on 1 January 2004 and for smaller organisations on 1 January 2005. Right from the beginning, the ZEWO foundation had been actively represented in the working group, allowing it to contribute both its wealth of experience and voicing its concerns. The fact that the ZEWO foundation and the Swiss GAAP FER expert commission pulled in the same direction was certainly beneficial, with the future development regarding the accounting of non-profit organisation now outlined clearly and transparently.

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<sup>1</sup> FER, foundation and independent expert commission for recommendations in accounting, Swiss GAAP FER 21, Recommendation No. 21

<sup>2</sup> ZEWO, the Swiss specialist body for charitable organisations that collect donations

[box 3]

Swiss GAAP FER or Swiss GAAP ARR (Accounting and Reporting Recommendations) is the Foundations for Financial Reporting Standards in Switzerland. Swiss GAAP FER is based (among others) on the following principles:

- the financial reporting in compliance with Swiss GAAP FER shall present a true and fair view of the financial position, the results of operations and the cash flow of the reporting company in the sense of a “fair presentation”.
- ARR/FER regulates the main financial reporting issues. Issues not covered by ARR/FER are to be resolved in terms of the true and fair principle. Swiss GAAP FER thus represents the concept of principle-based standards.
- Swiss GAAP FER represents a complete framework of reporting standards.
- Swiss GAAP FER standards should be simple, short and easy to understand to ensure a cost benefit balance for users thereof.
- ARR/FER is a self-contained regulatory commission that strives to include developments in international accounting standards in its own work. In particular, the move to other principle-based standards (such as IFRS) should be simplified by allowing for various options within Swiss GAAP FER.
- others see ARR/FER: Swiss GAAP FER 2003 p. 5

In 2002, Swiss GAAP FER has issued Swiss GAAP FER 21, an accounting standard for charitable, social non-profit organisations.

With the Swiss GAAP FER 21 coming into effect, five years of exciting work by the Swiss GAAP FER 21 has come to a successful conclusion. But, what has come to an end is only the process of setting standards or finding “generally accepted accounting principles (GAAP)” for non-profit organisations. And the real-life test is still to come. The long-term success will depend on the quality of the Swiss GAAP FER 21.

To assess the quality of an accounting system, it is important to know whether it can be implemented with good cost efficiency, whether the necessary transparency is created and whether the need for information of the various stakeholders is satisfied. Equally important is the issue whether misuse can be prevented with the help of certain standards and whether the new standard gives those willing to misuse the system some new options for circumvention.

[box 4] **Members of the Swiss GAAP FER 21 working group**

- Kaspar Müller, Ellipson AG, Basel, head of the working group
- Betty Lynn Evans, WWF International, Gland
- Maria Marbet, ZEWO, Zurich and Olten
- Prof. Dr. Ernst-Bernd Blümle, VMI, University of Fribourg/CH
- Dr. Reto Eberle, KPMG, Zurich and technical secretary Swiss GAAP FER
- Johannes Fark, KPMG, Zurich
- Rolf Hersperger, ICRC, Geneva
- Ulf Herzer, ICRC, Geneva
- Ernst Langensand, followed by Hans Krummenacher, Caritas, Lucerne
- Fritz Steiger, cantonal social insurance office and foundation supervisor of the Canton of Bern

A technical recommendation of good quality also sets clear guidelines, it points the way and gives the stakeholders the certainty that their information policy follows recognised methods and principles (legal and planning security). But security in law and planning does not mean that necessary adjustments can be waived. Good technical recommendations and the people responsible for them must be willing to learn. After a certain period of, say, two or three years, the experiences made to date ought to be discussed and

any necessary modifications and changes should be agreed. This also means that each and every stakeholder including the non-profit organisations themselves, the auditors, members and donors of non-profit organisations, the public and the supervisory agencies must actively track and shape the development.

The success and the acceptance of the Swiss GAAP FER 21 in practice will also depend to a substantial degree on whether the right measure for its professional implementation is found. Swiss GAAP FER 21 must be implemented in all seriousness, a mentality of evasion and circumvention must not be allowed to develop. Also, by the same token, no technocratic over-interpretation generating additional costs and little additional benefit must be allowed space. Both the non-profit organisations and the auditing companies must work hand in hand to find this right balance.

### **First statements**

We are pleased to say that the first statements in accordance with Swiss GAAP FER 21 have already been made. These include, among others, Schweizer Berghilfe (Swiss Mountain Rescue; [www.berghilfe.ch](http://www.berghilfe.ch)) and the Swiss Air Rescue ([www.rega.ch](http://www.rega.ch)) or Rega. For the past financial year 2002 and for the previous year 2001, Rega has for the first time submitted its accounts under Swiss GAAP FER 21. Rega saw itself motivated by “playing a pioneering role among the non-profit organisations and believing that a high level of active deployment must be accompanied by a modern and up-to-date administration”.<sup>1</sup> Rega's first experiences demonstrate that the effort of changing has been worthwhile. Rega's new Swiss GAAP FER 21 accounting system provides both a better flow of information in terms of quality and quantity and a level of transparency commensurate with Rega's quality claims. On the other hand, the new system also gives the foundation board and the management an excellent managerial tool, particularly since the asset, finance and income situation can now be shown in a factual and matter-of-fact manner which complies with reality - in other words: a true and fair view.

Other non-profit organisations have already begun preparations for making their financial statement for 2003 conform with Swiss GAAP FER 21, for instance WWF Switzerland for the 2003/2004 financial year. And, naturally, all major non-profit organisations wishing to own and keep the ZEWÖ seal of quality are also preparing for their Swiss GAAP FER 21 annual financial statement for 2004.

### **The most important features**

Swiss GAAP FER 21 is a self-contained accounting and reporting system which, in addition and in modification of the technical recommendations (Swiss GAAP FER) contains recommendations for annual statements of charitable, social non-profit organisations. The application of Swiss GAAP FER 21 is voluntary, which means that it is not mandatory. Non-profit organisations applying Swiss GAAP FER 21 should, however, state so in their annual accounts. On the other hand, Swiss GAAP FER 21 is mandatory for non-profit organisations wishing to obtain and keep the ZEWÖ seal of quality (for major organisations beginning from the 2004 financial year, for smaller ones beginning from the 2005 financial year).

### **Definition and delimitation**

Swiss GAAP FER 21 focuses on a certain type of non-profit organisation. A non-profit organisation within the meaning of Swiss GAAP FER 21 is an organisation irrespective of its legal form which provides services in the interest of the general public, in particular social services, independent from claims by third parties and/or members and which raises funds publicly from an undefined number of donors and/or

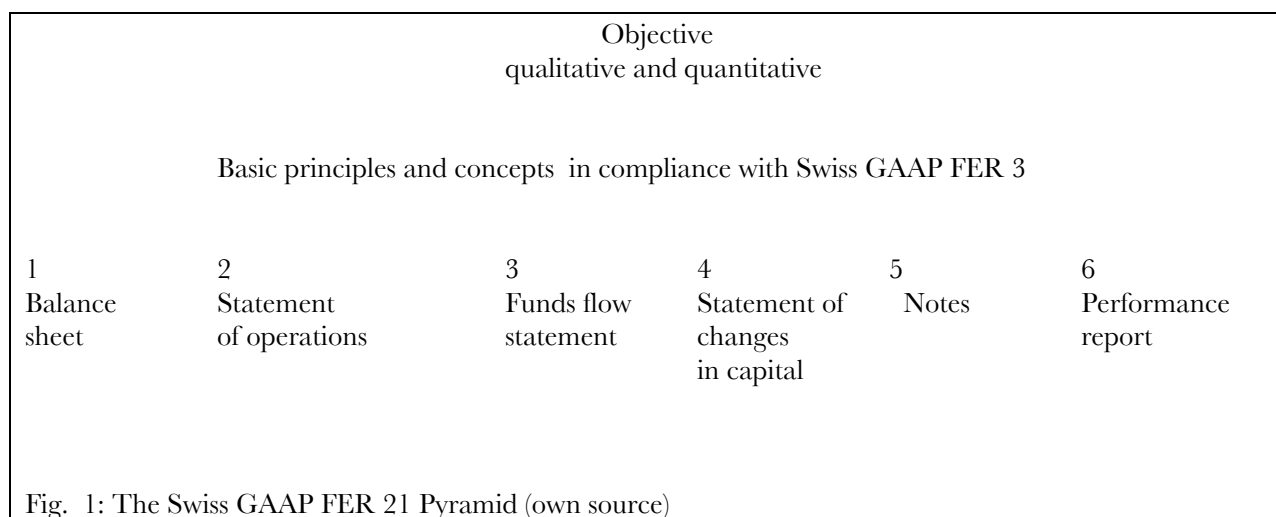
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<sup>1</sup> Rega (publ.) 2003

receives restricted contributions from public authorities. One important feature is that the beneficiaries of the organisation's services generally differ from those rendering the services (through donations, voluntary work, etc.). This means that membership-based associations and clubs from the business and leisure sector and from the world of labour (business associations, trade unions, music and sports associations), public operations with service mandate (museums, hospitals, theatres) or insurance institutions (pension funds, health insurance funds) do not fall under this definition.

### The basic structure

The structure of Swiss GAAP FER 21 is pyramid-shaped, with the following objective specified at the top of the pyramid: “Increasing the meaningfulness and comparability of the financial statements and financial reporting of non-profit organisations”. This objective can be broken down into quantitative and qualitative sub-goals.



This leads us to the next level, namely the basics and principles of proper accounting in compliance with Swiss GAAP FER 3. Like most organisations, non-profit organisations are obliged to provide financial statements giving a true and fair view of the actual financial and income situation. When it comes to the principles for non-profit organisations, the significance of the “gross” principle in the presentation of expenditure and income in general, but also of projects outsourced in terms of organisation, should be noted.

The entire system is based on the six elements of annual financial statements, i.e. balance sheet, statement of operations, funds flow statement (major non-profit organisations only), statement of changes in capital, notes and a performance report. The statement of changes in capital and a meaningful performance report (qualitative element) are designed to account for the special characteristics involved in the fund-raising activities and the lack of profit pursuance of non-profit organisations.

Finally, Swiss GAAP FER 21 includes four appendices showing the application of the balance sheet, the statement of operations, the funds flow statement and the statement of changes in capital, as well as a glossary which describes the most important terms.

In compliance with Swiss GAAP FER 21, two additional requirements have been formulated for major organisations. First, major non-profit organisations must show their expenditure and income on an accrual basis. Secondly, they must prepare an additional funds flow statement (Swiss GAAP FER 21, paragraphs 3 and 26). Organisations are deemed to be major non-profit organisations if they achieve two

of the following thresholds on two consecutive balance sheet dates: assets of two million Francs; proceeds from public fundraising (donations, legacies), and earmarked public funds (public contributions) totalling one million Francs; ten full-time salaried employees on average throughout any financial year (Swiss GAAP FER 21, Definitions).

Discussing all the features, recommendations and explanations of Swiss GAAP FER 21 in detail is not the purpose of this article. However, four central topics including the statement of changes in capital, the consolidation issue, transactions with related parties, and the performance report will be addressed in greater detail.

### **Statement of changes in capital**

Understanding the balance sheet of a non-profit organisation also requires a clear understanding of the different types of capital: capital from outside sources, fund capital and the organisational capital.

Capital from outside sources is given by third parties (outsiders) for use by the non-profit organisation for a certain period of time and must be repaid (current and non-current liabilities). Organisational capital (called “equity” in the accounting systems of profit-making organisations) is given to the non-profit organisation by the sponsoring institution for the purpose of the organisation meeting its stipulated purpose, or is created from generated funds. Repayment to the interested parties is impossible. Fund capital includes contributions with restrictions imposed (so-called restricted income funds and restricted capital and endowment funds). Restricted funds are contributions made by third parties, given to the non-profit organisation with a clearly defined purpose restricting their use and for the non-profit organisation to manage. The restricted funds are shown in the balance sheet under the item Fund Capital.

The statement of changes in capital now shows the allocation, utilisation and unspent balance of funds, each from equity finance (organisational capital) and of the individual restricted funds (fund capital). This creates a sharp and transparent representation of the activities of a non-profit organisation over the past year with respect to the observance of the purpose of allocations, the income-securing management of the individual funds and the safeguarding of liquidity for the allocation of the restricted means. Any shifts between the individual funds are also made evident. This would not be evident from the statement of operations, because this would only show the transactions affecting the net surplus/deficit for the year (cf. Swiss GAAP FER 21, appendix 4). Including the provisions allows the donors to judge the result shown in the statement of operations properly and correctly. It may, after all, be in the interest of non-profit organisations to show a none too positive result in order not to impair the future in-flow of donations. Including the provisions will show if, and the extent to which, the non-profit organisation has made downward adjustments to the result.

### **Consolidation, transactions with related organisations and parties, voluntary work**

In non-profit accounting, the treatment of the consolidation issue and the question of how to treat dealings (transactions) with related organisations and parties are also crucial elements for obtaining a meaningful, true and fair view of the financial position, results of operations and cash flows of the non-profit-organisation and financial statements and reports which can be compared with other non-profit organisations. Both these elements are contained in Swiss GAAP FER 21.

Considering the increasingly commercial activities of non-profit organisations, consolidation is a particularly important aspect. Commercial activities often reach a considerable volume and are often handled by subsidiaries of non-profit organisations. According to an article published in the New York

Times on 17 March by Storm<sup>1</sup> ““Nonprofit Groups Reach for Profit on the Side”, commercial activities by US non-profit organisations have meanwhile reached a volume of USD 60 billion. According to Storm, the driving force behind this increase is the fact that the volume of donations has stagnated at about 2% of private income levels. This is why non-profit organisations are more or less compelled to tap new sources of income if they want to stay in “business”. Consolidation also eliminates the incentive to outsource project and part sectors and so to obscure the clarity of the accounting. Again, stakeholders holding interests in a non-profit organisation are unable to reliably judge the organisation without consolidation. The principles of Swiss GAAP FER 21 (paragraphs 10 and 44) therefore include the recommendation that that organisation subject to a common controlling influence should be consolidated. According to Swiss GAAP FER 21, a controlling influence prevails in case of a majority of voting or capital rights, control over the majority of directors/trustees, and/or by virtue of contractual or statutory provisions.

The question arises in connection with non-profit organisations whether consolidation is actually called for if the controlling party or organisation is not itself under consolidation duty (combination). Swiss GAAP FER 21 notes that there may be substantial reasons in these cases which demand a consolidated financial statement. These include, for instance, the appearance of common control and management, especially when the objectives of the organisation are discussed and agreed (Swiss GAAP FER 21, paragraphs. 11 and 45).

This question leads us directly to the issue involving transactions with related parties. If two independent non-profit organisations are managed by one and the same entity, the minimum requirement is to provide comprehensive and detailed information on the transactions with related entities. The fundamental issue of dealings with related organisations is described in Swiss GAAP FER 15: “Transactions with related parties are not automatically comparable with those with independent third parties because due to the special relationship these transactions do not necessarily have to be set up at market conditions. The knowledge of significant transactions with related parties is therefore important to the readers of financial statements” (Swiss GAAP FER 15, paragraph 5). This is why, according to Swiss GAAP FER 21, transactions with related and legally independent organisations, companies, individuals and projects are to be disclosed by all means.

The issue of transactions with related parties and projects is also linked to the issue of how to treat services and considerations which are not based on cash flow and which can therefore not be captured in terms of bookkeeping (e.g. voluntary work). Swiss GAAP FER 21 therefore provides that preferential and free services such as volunteer work (in days or hours), donations in kind and materials (at market value), special rebates and other benefits (service free of charge when buying goods) are to be disclosed. Goods or services (volunteer work, transport charges, telecommunication charges and others) which are rendered free of charge in whole or in part are to be disclosed, showing prices/charges usually demanded among and between independent parties (estimated value). If goods or services can be assessed only with disproportionate effort, or if the value allocation rests on highly unreliable assumptions, the volume of the goods and services is to be disclosed in statistical terms (for instance, the number of goods received or the scope of the volunteer work). Without disclosing voluntary services, it will not be possible to reliably judge and compare the efficiency of different non-profit organisations.

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<sup>1</sup> Storm 2003

[box 5] **The invisible hand of Adam Smith**

The necessity for non-profit organisations partly derives from the deficiencies of profit-based accounting. The focus of the traditional, profit-based economies on variables measurable in terms of money promotes the externalisation of social, ecological, cultural and other costs. Seen in economic terms, the orientation of an accounting system towards residual variables such as profit and equity leads to a sub-optimal use of the financial resources and other scarce resources. This creates the demand for organisations which mainly pursue the purpose of becoming active on behalf of third parties or the public in a charitable, cultural or social sense, without receiving consideration for their services. The profit-based economy is far from capable of regulating things as they would be necessary for the sustained functioning of a social society. Although Adam Smith, in his theory of ethical sensations, held the view that “the rich are guided by an invisible hand towards bringing about virtually the same distribution of the necessities of life which would have come about if the Earth had been evenly distributed among its inhabitants” (Adam Smith). But the invisible hand is not strong enough to distribute the necessities of life such that no hardship arises. This becomes apparent by the many charitable, social non-profit organisations whose purpose it is to relieve hardship and need.

### **The performance report**

Both the statement of changes in capital and the performance report are an integral part of accounting demanded additionally for non-profit organisations. The performance report is designed to provide information on the efficiency and effectiveness of non-profit organisations. It serves, in particular, to convey results which can be captured only in qualitative terms. These include details on the set targets and services rendered, or a description of how the qualitative targets reached are measured and assessed. It is also advisable to analyse the satisfaction of the service recipients and/or of the beneficiaries.

The principles of proper accounting and reporting also apply to the performance report. Particular attention must be paid to continuity. However, the details given in the performance report are not subject to the due and proper auditing obligation by the auditors.

There is no need for crystal balls to predict that non-profit organisations will increase in importance (cf. box 4). Together with the members' interest in the non-profit organisation, public attention will increase in equal measure. In future, non-profit organisations will be X-rayed and questioned ever more critically. This means that it is not only new modes of accounting, but also new channels of communication with the various claimant and beneficiary groups which will arise. The performance report will also be suitable for proactively addressing issues and questions which members or third parties may be asking in two or three years' time.

### **Opportunities and limits**

By definition, Swiss GAAP FER 21 only applies to non-profit organisations rendering charitable and, in particular, social services. This means that Swiss GAAP FER 21 covers only some of the many non-profit organisations with a generally accepted accounting system. A large (and by no means insignificant) section of the non-profit organisations such as business associations, trade unions, music and sports clubs (membership-based associations) or operations under public law with service mandate (museums, hospitals, theatres) can as yet not rely on a generally accepted accounting system specifically designed for them.

But nevertheless, these organisations also have highly important functions for their members, and they often demand fairly high membership fees. Considering the powerful influence which business and

employers' associations, in particular, have on political and economic framework conditions, it will immediately become apparent that these organisations also need adequate transparency for their members and other claimant groups such as the public at large.

By addressing important key issues in accounting for non-profit organisations rendering charitable and social services, Swiss GAAP FER 21 also prepares the ground for other non-profit organisations. Some of the key issues among other non-profit organisations are, and continue to be, those of disclosing transactions with related parties, the consolidation issue, the application of the “gross” principle, handling restricted (earmarked) capital and assets, and providing meaningful information with the help of the performance report.

The consequences which the non-disclosure of transactions with related entities can have were shown starkly by the case described in NZZ on 17 January 2003 involving the Swiss Ice Hockey Association (SEHV). The *Neue Zürcher Zeitung* writes that “in connection with a deal made with the Swiss spin-off of the sport marketing company IMG, the former president of the Swiss Ice Hockey Association siphoned off at least a million Swiss Francs into his own account”<sup>1</sup>. It seems that this had neither been booked nor disclosed anywhere, with the effect that the members of the association had been totally unaware. It also seems that, as a result of the special relationship, transactions had not been carried out at arm's length and under strict and usual market conditions (cf. Swiss GAAP FER 15, No. 5).

Many non-profit organisations have subsidiaries (cf. consolidation). More often than not, the members are refused inspection of the performance and results of these interests since neither the individual accounts nor the consolidated accounts are submitted. Members who have no complete view of the asset, financial and operational situation cannot evaluate the appropriateness of the membership fees, nor can they judge the strategically relevant allocation of funds to the activities of their association. In its consolidated Swiss GAAP FER 21 financial statement, Rega has comprehensively and transparently dealt with this issue (for its sponsors), others such as the Swiss Financial Analysts Association (SFAA, formerly Swiss Association for Financial Analysis and Asset Management) still show some shortcomings in the information they provide for their members about their subsidiaries.

Even if they do not fall within the scope of definition of Swiss GAAP FER 21, non-profit organisations are well advised to adopt many of the corresponding elements. In this sense, Swiss GAAP FER 21 radiates its accounting principles over many non-profit organisations. But this is not supposed to mean that, once the Swiss GAAP FER 21 is applied correctly, all issues affecting a non-profit organisation will be solved. On the contrary, one also has to be aware of the limits of Swiss GAAP FER 21.

### **No more than a set of rules for accounting**

Swiss GAAP FER 21 is a set of rules for accounting, no more and no less. But a set of rules for accounting tends to be incapable of solving such issues as management and control, or of organisational structure and culture (corporate governance). Not every problem encountered by non-profit organisations is due to inadequate accounting and transparency. The problem is quite often that the corporate governance structure lags behind the rapidly growing framework conditions for non-profit organisations. For instance, the growing professionalism and the increasing scope of activities of major non-profit organisations raise the question whether board functions can, and should, continue to be handled by people working on an honorary or voluntary basis. Of course, this is not to imply that voluntary work is always unprofessional. But the implication is that the workload and knowledge needed is such that fewer and fewer candidates can do the work without being paid. Regarding honorary work at the executive level, many of today's major non-profit organisations face a paradigm change. The disbursement for

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<sup>1</sup> Mühlethaler 2003

board work should, on the one hand, be tied to a clear assignment of tasks, responsibilities and adequate control mechanisms (e.g. by way of finance, nomination or disbursement committees) and, on the other hand, all cash flows between non-profit organisations and their agents must be fully disclosed.

With the disclosure, the corporate governance debate again leads into the area of accounting and information policy. In this sense, Swiss GAAP FER 21 is an important instrument of modern corporate governance of non-profit organisations.

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